

STATE OF NEW YORK

7827

2023-2024 Regular Sessions

IN ASSEMBLY

June 15, 2023

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the
Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to hospitalization,
care coordination, and assisted outpatient treatment for persons with
mental illness

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "The Supportive
2 Interventions Act".

3 § 2. Legislative findings. The legislature finds that with proper
4 support, the great majority of New Yorkers with severe mental illness
5 can thrive in outpatient settings as fully-integrated members of the
6 communities of our state.

7 The legislature further finds that a core function of our mental
8 health system is to help each person with severe mental illness maximize
9 their potential for a self-directed life. Fulfilling this responsibility
10 requires a flexible approach that acknowledges the challenges that indi-
11 viduals with severe mental illness may face at certain junctures in
12 recognizing their own illness and need for treatment. To empower a
13 person to gain command of their own mental health recovery in due
14 course, it is sometimes necessary to extend a lifeline through a period
15 of mandated treatment.

16 The legislature further finds that it is always preferable for an
17 individual in psychiatric crisis or at risk thereof to accept mental
18 health treatment voluntarily, and that care providers be encouraged to
19 make diligent efforts to exhaust such possibilities before resorting to
20 involuntary care.

21 The legislature further finds that while New York law appropriately
22 limits involuntary hospitalization to circumstances where a person's
23 mental illness is deemed "likely to result in serious harm," a lack of
24 statutory guidance has led to tragically narrow interpretations of this

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 standard. The serious harm likely to result from egregious self-neglect,
2 including psychiatric deterioration likely to result from an extended
3 period of untreated psychosis, is too often not considered in the clin-
4 ical evaluation of those in crisis.

5 The legislature further finds individuals not receiving essential
6 mental health care because they are unable to recognize their own need
7 for it may face "revolving door" hospitalization, and intolerable rates
8 of victimization and premature death.

9 The legislature further finds that while assisted outpatient treat-
10 ment, as established by "Kendra's Law" in 1999, has been highly effec-
11 tive in helping New Yorkers with severe mental illness live safely in
12 the community and avoid hospitalization and criminal justice involve-
13 ment, gaps and barriers in the law have prevented the participation of
14 many individuals who meet the legal eligibility criteria and stand to
15 benefit from this essential intervention.

16 The legislature intends and expects that the supportive interventions
17 facilitated by this act will save lives, raise the quality of life for
18 New Yorkers with severe mental illness and their loved ones, enhance
19 public safety, reduce criminalization of mental illness, and improve the
20 efficiency and cost-effectiveness of our public mental health system.

21 The legislature further finds that there is no choice to be made
22 between the reforms enacted herein and the additional need to increase
23 investments in community-based mental health. Ongoing efforts to expand
24 availability of mental health treatment and services, supportive hous-
25 ing, and opportunities for social connection must continue, and offer
26 great promise to reduce the need for the crisis response mechanisms
27 addressed in this act.

28 § 3. Section 9.01 of the mental hygiene law, as amended by chapter 723
29 of the laws of 1989, the seventh undesignated paragraph as amended by
30 chapter 595 of the laws of 2000, is amended to read as follows:

31 § 9.01 Definitions.

32 As used in this article:

33 "in need of care and treatment" means that a person has a mental
34 illness for which in-patient care and treatment in a hospital is appro-
35 priate.

36 "in need of involuntary care and treatment" means that a person has a
37 mental illness for which care and treatment as a patient in a hospital
38 is essential to such person's welfare and ~~[whose]~~ that so impairs the
39 person's judgment [is so impaired] that ~~[he]~~ the person is unable to
40 understand the need for such care and treatment. Care and treatment in a
41 hospital shall be considered essential to a person's welfare if, in the
42 absence of such care and treatment, the person's mental illness is like-
43 ly to result in serious harm to self or others.

44 ~~["likelihood to result in serious harm" or]~~ "likely to result in seri-
45 ous harm to self or others" means ~~[(a)]~~ presenting a substantial risk
46 of: (a) physical or psychiatric harm to the person as manifested by: (i)
47 threats of or attempts at suicide or serious bodily harm; (ii) substan-
48 tial inability of the person to meet his or her basic need for food,
49 clothing, shelter or medical care; or (iii) other conduct demonstrating
50 that the person is dangerous to himself or herself, or (b) [a substan-
51 tial risk of] physical harm to other persons as manifested by homicidal
52 or other violent behavior or threats by which others are placed in
53 reasonable fear of serious physical harm.

54 "need for retention" means ~~[that]~~ the need of a person who has been
55 admitted to a hospital pursuant to this article ~~[is in need]~~ for a

1 further period of involuntary care and treatment in a hospital [~~for a~~
2 ~~further period~~].

3 "record" of a patient shall consist of admission, transfer or
4 retention papers and orders, and accompanying data required by this
5 article and by the regulations of the commissioner.

6 "director of community services" means the director of community
7 services for the mentally disabled appointed pursuant to article forty-
8 one of this chapter.

9 "qualified psychiatrist" means a physician licensed to practice medi-
10 cine in New York state who: (a) is a diplomate of the American board of
11 psychiatry and neurology or is eligible to be certified by that board;
12 or (b) is certified by the American osteopathic board of neurology and
13 psychiatry or is eligible to be certified by that board.

14 "qualified clinical examiner" means a psychiatric nurse practitioner
15 certified by the department of education, a psychologist licensed pursu-
16 ant to article one hundred fifty-three of the education law, or a clin-
17 ical social worker licensed pursuant to article one hundred fifty-four
18 of the education law.

19 "qualified mental health professional" means a qualified clinical
20 examiner, a professional nurse registered pursuant to article one
21 hundred thirty-nine of the education law, or any of the following work-
22 ing under the supervision of a physician or qualified clinical examiner:
23 a master social worker licensed pursuant to article one hundred fifty-
24 four of the education law, a mental health counselor licensed pursuant
25 to article one hundred sixty-three of the education law, or a marriage
26 and family therapist licensed pursuant to article one hundred sixty-
27 three of the education law.

28 § 4. The mental hygiene law is amended by adding a new section 9.04 to
29 read as follows:

30 § 9.04 Clinical determination of risk of harm.

31 A clinical determination of whether a person's mental illness is like-
32 ly to result in serious harm to self or others shall take account of:

33 (a) all relevant information presented to the evaluating facility's
34 staff, including credible reports of the person's recent behavior and
35 any known information related to the person's medical and behavioral
36 history;

37 (b) the person's current ability, with available support, to adhere to
38 outpatient treatment; and

39 (c) the expected long-term impact on the person's health or safety of
40 actions or self-neglect caused by mental illness.

41 § 5. Section 9.05 of the mental hygiene law, as renumbered by chapter
42 978 of the laws of 1977, is amended to read as follows:

43 § 9.05 Examining physicians, qualified clinical examiners, and medical
44 certificates.

45 (a) A person is disqualified from acting as an examining physician or
46 qualified clinical examiner in the following cases:

47 1. if he or she is a relative of the person applying for the admission
48 or of the person alleged to be mentally ill.

49 2. if he or she is a manager, trustee, visitor, proprietor, officer,
50 director, or stockholder of the hospital in which the patient is hospi-
51 talized or to which it is proposed to admit such person, except as
52 otherwise provided in this chapter, or if he or she has any pecuniary
53 interest, directly or indirectly, in such hospital, provided that
54 receipt of fees, privileges, or compensation for treating or examining
55 patients in such hospital shall not be deemed to be a pecuniary inter-
56 est.

1 3. if he or she is on the staff of a proprietary facility to which it
2 is proposed to admit such person.

3 (b) A certificate, as required by this article, must show that the
4 person is mentally ill and shall be based on an examination of the
5 person alleged to be mentally ill made within ten days prior to the date
6 of admission. The date of the certificate shall be the date of such
7 examination. All certificates shall contain the facts and circumstances
8 upon which the judgment of the physicians or qualified clinical examin-
9 ers is based and shall show that the condition of the person examined is
10 such that he or she needs involuntary care and treatment in a hospital,
11 and such other information as the commissioner may by regulation
12 require.

13 § 6. The section heading and subdivisions (a), (d), (e), and (i) of
14 section 9.27 of the mental hygiene law, section 9.27 as renumbered by
15 chapter 978 of the laws of 1977 and subdivision (i) as amended by chap-
16 ter 847 of the laws of 1987, are amended to read as follows:

17 Involuntary admission on [~~medical~~] clinical certification.

18 (a) The director of a hospital may receive and retain therein as a
19 patient any person alleged to be mentally ill and in need of involuntary
20 care and treatment upon the certificates of two examining physicians,
21 two examining qualified clinical examiners or a combination of an exam-
22 ining physician and an examining qualified clinical examiner, accompa-
23 nied by an application for the admission of such person. The examination
24 may be conducted jointly but each examining physician or qualified clin-
25 ical examiner shall execute a separate certificate.

26 (d) Before an examining physician or qualified clinical examiner
27 completes the certificate of examination of a person for involuntary
28 care and treatment, [~~he~~] the physician or qualified clinical examiner
29 shall consider alternative forms of care and treatment that might be
30 adequate to provide for the person's needs without requiring involuntary
31 hospitalization. If the examining physician or qualified clinical exam-
32 iner knows that the person he or she is examining for involuntary care
33 and treatment has been under prior treatment, he or she shall, insofar
34 as [~~possible~~] reasonable, consult with the physician or [~~psychologist~~]
35 qualified mental health professional furnishing such prior treatment
36 prior to completing [~~his~~] the certificate. Nothing in this section shall
37 prohibit or invalidate any involuntary admission made in accordance with
38 the provisions of this chapter.

39 (e) The director of the hospital where such person is brought shall
40 cause such person to be examined forthwith by a physician or qualified
41 clinical examiner who shall be a member of the psychiatric staff of such
42 hospital other than the original examining physicians or qualified clin-
43 ical examiner whose certificate or certificates accompanied the applica-
44 tion, and[~~r~~] if such person is found to be in need of involuntary care
45 and treatment, he or she may be admitted thereto as a patient as herein
46 provided.

47 (i) After an application for the admission of a person has been
48 completed and both physicians or qualified clinical examiners have exam-
49 ined such person and separately certified that he or she is mentally ill
50 and in need of involuntary care and treatment in a hospital, either
51 physician or qualified clinical examiner is authorized to request peace
52 officers, when acting pursuant to their special duties, or police offi-
53 cers[~~r~~] who are members of an authorized police department or force or
54 of a sheriff's department, to take into custody and transport such
55 person to a hospital for determination by the director whether such
56 person qualifies for admission pursuant to this section. Upon the

1 request of either physician or qualified clinical examiner, an ambulance
2 service, as defined by subdivision two of section three thousand one of
3 the public health law, is authorized to transport such person to a
4 hospital for determination by the director whether such person qualifies
5 for admission pursuant to this section.

6 § 7. The section heading and subdivision (a) of section 9.29 of the
7 mental hygiene law, section 9.29 as renumbered by chapter 978 of the
8 laws of 1977 and subdivision (a) as amended by chapter 789 of the laws
9 of 1985, are amended to read as follows:

10 Involuntary admission on [~~medical~~] clinical certification; notice of
11 admission to patients and others.

12 (a) The director shall cause written notice of a person's involuntary
13 admission on an application supported by [~~medical~~] clinical certif-
14 ication to be given forthwith to the mental hygiene legal service.

15 § 8. The section heading and subdivision (a) of section 9.31 of the
16 mental hygiene law, section 9.31 as renumbered by chapter 978 of the
17 laws of 1977, subdivision (a) as amended by chapter 789 of the laws of
18 1985, are amended to read as follows:

19 Involuntary admission on [~~medical~~] clinical certification; patient's
20 right to a hearing.

21 (a) If, at any time prior to the expiration of sixty days from the
22 date of involuntary admission of a patient on an application supported
23 by [~~medical~~] clinical certification, [~~he~~] such patient or any relative
24 or friend, or the mental hygiene legal service gives notice in writing
25 to the director of a request for hearing on the question of need for
26 involuntary care and treatment, a hearing shall be held as herein
27 provided. The patient or person requesting a hearing on behalf of the
28 patient may designate the county where the hearing shall be held, which
29 shall be either in the county where the hospital is located, the county
30 of the patient's residence, or the county in which the hospital to which
31 the patient was first admitted is located. Such hearing shall be held in
32 the county so designated, subject to application by any interested
33 party, including the director, for change of venue to any other county
34 because of the convenience of parties or witnesses or the condition of
35 the patient upon notice to the persons required to be served with notice
36 of the patient's initial admission.

37 § 9. Subdivision (a) of section 9.33 of the mental hygiene law, as
38 amended by chapter 789 of the laws of 1985, is amended to read as
39 follows:

40 (a) If the director shall determine that a patient admitted upon an
41 application supported by [~~medical~~] clinical certification, for whom
42 there is no court order authorizing retention for a specified period, is
43 in need of retention and if such patient does not agree to remain in
44 such hospital as a voluntary patient, the director shall apply to the
45 supreme court or the county court in the county where the hospital is
46 located for an order authorizing continued retention. Such application
47 shall be made no later than sixty days from the date of involuntary
48 admission on application supported by [~~medical~~] clinical certification
49 or thirty days from the date of an order denying an application for
50 patient's release pursuant to section 9.31 of this article, whichever is
51 later; and the hospital is authorized to retain the patient for such
52 further period during which the hospital is authorized to make such
53 application or during which the application may be pending. The director
54 shall cause written notice of such application to be given to the
55 patient and a copy thereof shall be given personally or by mail to the
56 persons required by this article to be served with notice of such

1 patient's initial admission and to the mental hygiene legal service.
2 Such notice shall state that a hearing may be requested and that failure
3 to make such a request within five days, excluding Sunday and holidays,
4 from the date that the notice was given to the patient will permit the
5 entry without a hearing of an order authorizing retention.

6 § 10. The section heading and subdivisions (a), (b), (c), (d), and (e)
7 of section 9.37 of the mental hygiene law, section 9.37 as renumbered by
8 chapter 978 of the laws of 1977, subdivision (a) as amended by chapter
9 723 of the laws of 1989, subdivision (c) as amended by chapter 230 of
10 the laws of 2004, and subdivision (d) as amended by chapter 357 of the
11 laws of 1991 and relettered by chapter 343 of the laws of 1996, and
12 subdivision (e) as relettered by chapter 343 of the laws of 1996, are
13 amended to read as follows:

14 Involuntary admission on certificate of a director of community
15 services or ~~[his]~~ director's designee.

16 (a) The director of a hospital, upon application by a director of
17 community services or an examining physician or qualified clinical exam-
18 iner duly designated by ~~[him or her]~~ such director, may receive and care
19 for in such hospital as a patient any person who, in the opinion of the
20 director of community services or the director's designee, has a mental
21 illness for which immediate inpatient care and treatment in a hospital
22 is appropriate and ~~[which]~~ that, without treatment, is likely to result
23 in serious harm to ~~[himself or herself]~~ self or others.

24 The need for immediate hospitalization shall be confirmed by a ~~[staff]~~
25 physician or qualified clinical examiner on the staff of the hospital
26 prior to admission. Within seventy-two hours, excluding Sunday and holi-
27 days, after such admission, if such patient is to be retained for care
28 and treatment beyond such time and he or she does not agree to remain in
29 such hospital as a voluntary patient, the certificate of another examin-
30 ing physician or qualified clinical examiner who is a member of the
31 psychiatric staff of the hospital that the patient is in need of invol-
32 untary care and treatment shall be filed with the hospital. From the
33 time of his or her admission under this section the retention of such
34 patient for care and treatment shall be subject to the provisions for
35 notice, hearing, review, and judicial approval of continued retention or
36 transfer and continued retention provided by this article for the admis-
37 sion and retention of involuntary patients, provided that, for the
38 purposes of such provisions, the date of admission of the patient shall
39 be deemed to be the date when the patient was first received in the
40 hospital under this section.

41 (b) The application for admission of a patient pursuant to this
42 section shall be based upon a personal examination by a director of
43 community services or ~~[his]~~ the director's designee. It shall be in
44 writing and shall be filed with the director of such hospital at the
45 time of the patient's reception, together with a statement in a form
46 prescribed by the commissioner giving such information as ~~[he]~~ the
47 commissioner may deem appropriate.

48 (c) Notwithstanding the provisions of subdivision (b) of ~~[this]~~
49 section 41.09 of this chapter, in counties with a population of less
50 than two hundred thousand, a director of community services who is a
51 licensed psychologist pursuant to article one hundred fifty-three of the
52 education law or a licensed clinical social worker pursuant to article
53 one hundred fifty-four of the education law but who is not a physician
54 or qualified clinical examiner may apply for the admission of a patient
55 pursuant to this section without ~~[a medical]~~ an examination by a desig-
56 nated physician or qualified clinical examiner, if a hospital approved

1 by the commissioner pursuant to section 9.39 of this article is not
2 located within thirty miles of the patient, and the director of communi-
3 ty services has made a reasonable effort to locate [~~a designated~~] an
4 examining physician or qualified clinical examiner designated pursuant
5 to section 41.09 of this chapter but such [~~a~~] designee is not immediate-
6 ly available and the director of community services, after personal
7 observation of the person, reasonably believes that [~~he~~] such person may
8 have a mental illness [~~which~~] that is likely to result in serious harm
9 to [~~himself~~] self or others and inpatient care and treatment of such
10 person in a hospital may be appropriate. In the event of an application
11 pursuant to this subdivision, a physician or qualified clinical examiner
12 of the receiving hospital shall examine the patient and shall not admit
13 the patient unless he or she determines that the patient has a mental
14 illness for which immediate inpatient care and treatment in a hospital
15 is appropriate and [~~which~~] that is likely to result in serious harm to
16 [~~himself~~] self or others. If the patient is admitted, the need for
17 hospitalization shall be confirmed by another [~~staff~~] physician or qual-
18 ified clinical examiner on the staff of the hospital within twenty-four
19 hours. An application pursuant to this subdivision shall be in writing
20 and shall be filed with the director of such hospital at the time of the
21 patient's reception, together with a statement in a form prescribed by
22 the commissioner giving such information as [~~he~~] the commissioner may
23 deem appropriate, including a statement of the efforts made by the
24 director of community services to locate a designated examining physi-
25 cian or qualified clinical examiner prior to making an application
26 pursuant to this subdivision.

27 (d) After signing the application, the director of community services
28 or the director's designee shall be authorized and empowered to take
29 into custody, detain, transport, and provide temporary care for any such
30 person. Upon the written [~~request~~] directive of such director or the
31 director's designee it shall be the duty of peace officers, when acting
32 pursuant to their special duties, or police officers who are members of
33 the state police or of an authorized police department or force or of a
34 sheriff's department, to take into custody and transport any such person
35 as [~~requested and~~] directed by such director or designee. Upon the writ-
36 ten request of such director or designee, an ambulance service, as
37 defined in subdivision two of section three thousand one of the public
38 health law, is authorized to transport any such person.

39 (e) Reasonable expenses incurred by the director of community mental
40 hygiene services or [~~his~~] the director's designee for the examination
41 and temporary care of the patient and [~~his~~] such patient's transporta-
42 tion to and from the hospital shall be a charge upon the county from
43 which the patient was admitted and shall be paid from any funds avail-
44 able for such purposes.

45 § 11. Subdivisions (a) and (b) of section 9.39 of the mental hygiene
46 law, subdivision (a) as amended by chapter 789 of the laws of 1985 and
47 such section as renumbered by chapter 978 of the laws of 1977, are
48 amended to read as follows:

49 (a) The director of any hospital maintaining adequate staff and facil-
50 ities for the observation, examination, care, and treatment of persons
51 alleged to be mentally ill and approved by the commissioner to receive
52 and retain patients pursuant to this section may receive and retain
53 therein as a patient for a period of fifteen days any person alleged to
54 have a mental illness for which immediate observation, care, and treat-
55 ment in a hospital is appropriate and [~~which~~] that is likely to result

1 in serious harm to [~~himself~~] self or others. [~~"Likelihood to result in~~
2 ~~serious harm" as used in this article shall mean:~~

3 ~~1. substantial risk of physical harm to himself as manifested by~~
4 ~~threats of or attempts at suicide or serious bodily harm or other~~
5 ~~conduct demonstrating that he is dangerous to himself, or~~

6 ~~2. a substantial risk of physical harm to other persons as manifested~~
7 ~~by homicidal or other violent behavior by which others are placed in~~
8 ~~reasonable fear of serious physical harm.]~~

9 The director shall cause to be entered upon the hospital records the
10 name of the person or persons, if any, who have brought such person to
11 the hospital and the details of the circumstances leading to the hospi-
12 talization of such person.

13 The director shall admit such person pursuant to the provisions of
14 this section only if a [~~staff~~] physician or qualified clinical examiner
15 on the staff of the hospital upon examination of such person finds that
16 such person qualifies under the requirements of this section. Such
17 person shall not be retained for a period of more than forty-eight hours
18 unless within such period such finding is confirmed after examination by
19 another physician or qualified clinical examiner who shall be a member
20 of the psychiatric staff of the hospital. Such person shall be served,
21 at the time of admission, with written notice of [~~his~~] such person's
22 status and rights as a patient under this section. Such notice shall
23 contain the patient's name. At the same time, such notice shall also be
24 given to the mental hygiene legal service and personally or by mail to
25 such person or persons, not to exceed three in number, as may be desig-
26 nated in writing to receive such notice by the person alleged to be
27 mentally ill. If at any time after admission, the patient, any relative,
28 friend, or the mental hygiene legal service gives notice to the director
29 in writing of request for court hearing on the question of need for
30 immediate observation, care, and treatment, a hearing shall be held as
31 herein provided as soon as practicable but in any event not more than
32 five days after such request is received, except that the commencement
33 of such hearing may be adjourned at the request of the patient. It shall
34 be the duty of the director upon receiving notice of such request for
35 hearing to forward forthwith a copy of such notice with a record of the
36 patient to the supreme court or county court in the county where such
37 hospital is located. A copy of such notice and record shall also be
38 given the mental hygiene legal service. The court [~~which~~] that receives
39 such notice shall fix the date of such hearing and cause the patient or
40 other person requesting the hearing, the director, the mental hygiene
41 legal service and such other persons as the court may determine to be
42 advised of such date. Upon such date, or upon such other date to which
43 the proceeding may be adjourned, the court shall hear testimony and
44 examine the person alleged to be mentally ill, if it be deemed advisable
45 in or out of court, and shall render a decision in writing that there is
46 reasonable cause to believe that the patient has a mental illness for
47 which immediate inpatient care and treatment in a hospital is appropri-
48 ate and [~~which~~] that is likely to result in serious harm to [~~himself~~]
49 self or others. If it be determined that there is such reasonable cause,
50 the court shall forthwith issue an order authorizing the retention of
51 such patient for any such purpose or purposes in the hospital for a
52 period not to exceed fifteen days from the date of admission. Any such
53 order entered by the court shall not be deemed to be an adjudication
54 that the patient is mentally ill, but only a determination that there is
55 reasonable cause to retain the patient for the purposes of this section.

(b) Within fifteen days of arrival at the hospital, if a determination is made that the person is not in need of involuntary care and treatment, ~~[he]~~ such person shall be discharged unless ~~[he]~~ such person agrees to remain as a voluntary or informal patient. If ~~[he]~~ such person is in need of involuntary care and treatment and does not agree to remain as a voluntary or informal patient, ~~[he]~~ such person may be retained beyond such fifteen day period only by admission to such hospital or another appropriate hospital pursuant to the provisions governing involuntary admission on application supported by ~~[medical]~~ clinical certification and subject to the provisions for notice, hearing, review, and judicial approval of retention or transfer and retention governing such admissions, provided that, for the purposes of such provisions, the date of admission of the patient shall be deemed to be the date when the patient was first received under this section. If a hearing has been requested pursuant to the provisions of subdivision (a), the filing of an application for involuntary admission on ~~[medical]~~ clinical certification shall not delay or prevent the holding of the hearing.

§ 12. Subdivisions (a-1), (b), and (c) of section 9.40 of the mental hygiene law, subdivisions (a-1) as added and (b) as amended by section 2 of part PPP of chapter 58 of the laws of 2020, and subdivision (c) as added by chapter 723 of the laws of 1989, are amended to read as follows:

(a-1) The director shall cause triage and referral services to be provided by a psychiatric nurse practitioner or physician of the program as soon as such person is received into the comprehensive psychiatric emergency program. After receiving triage and referral services, such person shall be appropriately treated and discharged, or referred for further crisis intervention services including an examination by a physician or qualified clinical examiner as described in subdivision (b) of this section.

(b) The director shall cause examination of such persons not discharged after the provision of triage and referral services to be initiated by a ~~[staff]~~ physician or qualified clinical examiner on the staff of the program as soon as practicable and in any event within six hours after the person is received into the program's emergency room. Such person may be retained for observation, care and treatment and further examination for up to twenty-four hours if, at the conclusion of such examination, such physician or qualified clinical examiner determines that such person may have a mental illness for which immediate observation, care and treatment in a comprehensive psychiatric emergency program is appropriate, and ~~[which]~~ that is likely to result in serious harm to ~~[the person]~~ self or others.

(c) No person shall be involuntarily retained in accordance with this section for more than twenty-four hours, unless (i) within that time the determination of the examining staff physician or qualified clinical examiner has been confirmed after examination by another physician or qualified clinical examiner who is a member of the psychiatric staff of the program and (ii) the person is admitted to an extended observation bed, as such term is defined in section 31.27 of this chapter. At the time of admission to an extended observation bed, such person shall be served with written notice of his or her status and rights as a patient under this section. Such notice shall contain the patient's name. The notice shall be provided to the same persons and in the manner as if provided pursuant to subdivision (a) of section 9.39 of this article. Written requests for court hearings on the question of need for immediate observation, care and treatment shall be made, and court hearings

1 shall be scheduled and held, in the manner provided pursuant to subdivi-
2 sion (a) of section 9.39 of this article, provided however, if a person
3 is removed or admitted to a hospital pursuant to subdivision (e) or (f)
4 of this section the director of such hospital shall be substituted for
5 the director of the comprehensive psychiatric emergency program in all
6 legal proceedings regarding the continued retention of the person.

7 § 13. Subdivision (a) of section 9.41 of the mental hygiene law, as
8 amended by section 4 of part AA of chapter 57 of the laws of 2021, is
9 amended to read as follows:

10 (a) Any peace officer, when acting pursuant to his or her special
11 duties, or police officer who is a member of the state police or of an
12 authorized police department or force or of a sheriff's department may
13 take into custody any person who appears to be mentally ill and is
14 ~~[conducting himself or herself]~~ acting in a manner ~~[which]~~ that is like-
15 ly to result in serious harm to ~~[the person]~~ self or others. Such offi-
16 cer may direct the removal of such person or remove him or her to any
17 hospital specified in subdivision (a) of section 9.39 of this article,
18 or any comprehensive psychiatric emergency program specified in subdivi-
19 sion (a) of section 9.40 of this article, or pending his or her examina-
20 tion or admission to any such hospital or program, temporarily detain
21 any such person in another safe and comfortable place, in which event,
22 such officer shall immediately notify the director of community services
23 or the director's designee, or if there be ~~[none]~~ no such director or
24 designee, the health officer of the city or county of such action.

25 § 14. Subdivision (a) of section 9.45 of the mental hygiene law, as
26 amended by section 6 of part AA of chapter 57 of the laws of 2021, is
27 amended to read as follows:

28 (a) The director of community services or the director's designee
29 shall have the power to direct the removal of any person, within his or
30 her jurisdiction, to a hospital approved by the commissioner pursuant to
31 subdivision (a) of section 9.39 of this article, or to a comprehensive
32 psychiatric emergency program pursuant to subdivision (a) of section
33 9.40 of this article, if the parent, adult sibling, spouse ~~[or]~~, domes-
34 tic partner as defined in section twenty-nine hundred ninety-four-a of
35 the public health law, child of the person, cohabitant of the person's
36 residential unit, the committee or legal guardian of the person, a
37 licensed psychologist, registered professional nurse or certified social
38 worker currently responsible for providing treatment services to the
39 person, a supportive or intensive case manager currently assigned to the
40 person by a case management program, which program is approved by the
41 office of mental health for the purpose of reporting under this section,
42 a licensed physician, health officer, peace officer or police officer
43 reports to ~~[him or her]~~ the director or the director's designee that
44 such person has a mental illness for which immediate care and treatment
45 is appropriate and ~~[which]~~ that is likely to result in serious harm to
46 ~~[himself or herself]~~ self or others. It shall be the duty of peace offi-
47 cers, when acting pursuant to their special duties, or police offi-
48 cers~~[,]~~ who are members of an authorized police department, or force or
49 of a sheriff's department to assist representatives of such director to
50 take into custody and transport any such person. Upon the request of a
51 director of community services or the director's designee, an ambulance
52 service, as defined in subdivision two of section three thousand one of
53 the public health law, is authorized to transport any such person. Such
54 person may then be retained in a hospital pursuant to the provisions of
55 section 9.39 of this article or in a comprehensive psychiatric emergency
56 program pursuant to the provisions of section 9.40 of this article.

§ 15. Subdivision (b) of section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious physical harm to self or others, ~~[he or she]~~ the mental health professional shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever ~~[he or she]~~ such director or designee agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

§ 16. Paragraph 3 of subdivision (b) of section 9.47 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(3) filing of petitions for assisted outpatient treatment pursuant to ~~[paragraph]~~ subparagraph (vii) of paragraph one of subdivision (e) of section 9.60 of this article, and documenting the petition filing date and the date of the court order;

§ 17. Section 9.55 of the mental hygiene law, as amended by chapter 598 of the laws of 1994, is amended to read as follows:

§ 9.55 Emergency admissions for immediate observation, care and treatment; powers of qualified psychiatrists and qualified clinical examiners.

A qualified psychiatrist or qualified clinical examiner shall have the power to direct the removal of any person^[7] whose treatment for a mental illness he or she is either supervising or providing in a facility licensed or operated by the office of mental health ~~[which]~~ that does not have an inpatient psychiatric service^[7] to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article or to a comprehensive psychiatric emergency program, if he or she determines upon examination of such person that such person appears to have a mental illness for which immediate observation, care and treatment in a hospital is appropriate and ~~[which]~~ that is likely to result in serious harm to ~~[himself or herself]~~ self or others. Upon the ~~[request]~~ directive of such qualified psychiatrist^[7] or qualified clinical examiner, peace officers, when acting pursuant to their special duties, or police officers^[7] who are members of an authorized police department or force or of a sheriff's department shall take into custody and transport any such person. Upon the request of a qualified psychiatrist or qualified clinical examiner, an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be admitted to a hospital in accordance with the provisions of section 9.39 of this article or to a comprehensive psychiatric emergency program in accordance with the provisions of section 9.40 of this article.

§ 18. The mental hygiene law is amended by adding a new section 9.56 to read as follows:

§ 9.56 Transport for evaluation; powers of specialized staff of adult care facilities.

1 (a) A physician or qualified mental health professional who has
2 completed training pursuant to subdivision (c) of this section and is
3 employed as a clinical staff member or clinical contractor of an adult
4 care facility as defined in section two of the social services law shall
5 be authorized to request that the director of such facility, or such
6 director's designee, direct the removal of any resident of such facility
7 who appears to be mentally ill and is acting in a manner that is likely
8 to result in serious harm to self or others, to a hospital approved by
9 the commissioner pursuant to subdivision (a) of section 9.39 or section
10 31.27 of this chapter or, where such physician or qualified mental
11 health professional deems appropriate and the person voluntarily agrees,
12 to a crisis stabilization center specified in section 36.01 of this
13 chapter.

14 (b) A facility director or director's designee who receives a request
15 from a physician or qualified mental health professional pursuant to
16 subdivision (a) of this section may direct peace officers acting pursu-
17 ant to their special duties, or police officers who are members of an
18 authorized police department or force or of a sheriff's department, to
19 take into custody and transport the resident identified in such request.
20 Upon the request of such facility director or designee, an ambulance
21 service, as defined in subdivision two of section three thousand one of
22 the public health law, is authorized to transport any such persons. Such
23 persons may then be evaluated for admission in accordance with the
24 provisions of section 9.27, 9.39, 9.40 or other sections of this arti-
25 cle, provided that such transport shall not create a presumption that
26 the person should be involuntarily admitted to a hospital.

27 (c) The commissioner shall develop standards relating to the training
28 requirements of physicians and mental health professionals authorized to
29 request transport pursuant to this section. Such training shall, at a
30 minimum, help to ensure that crisis and emergency services are provided
31 in a manner that protects the health and safety, and respects the indi-
32 vidual needs and rights, of persons being evaluated or transported
33 pursuant to this section.

34 (d) A person removed to a hospital pursuant to this section shall
35 maintain his or her status as a resident of the adult care facility
36 until admitted as a patient at such hospital or for twenty-four hours
37 following such person's release upon a determination by a physician or
38 qualified clinical examiner at such hospital to not admit the person as
39 a patient; provided that this section shall not prevent the adult care
40 facility from continuing such person's residency status for a longer
41 period at the discretion of the facility director or as the facility may
42 otherwise be obligated. Any personal property of such person located at
43 the facility at the time of removal shall be securely maintained by the
44 facility for the duration of any resulting hospitalization or crisis
45 stabilization, unless transferred to another party upon such person's
46 request.

47 § 19. The opening paragraph of section 9.57 of the mental hygiene law,
48 as amended by chapter 598 of the laws of 1994, is amended to read as
49 follows:

50 A physician or qualified clinical examiner who has examined a person
51 in an emergency room or provided emergency medical services at a general
52 hospital, as defined in article twenty-eight of the public health law,
53 ~~which~~ that does not have an inpatient psychiatric service, or a physi-
54 cian or qualified clinical examiner who has examined a person in a
55 comprehensive psychiatric emergency program shall be authorized to
56 request that the director of the program or hospital, or the director's

1 designee, direct the removal of such person to a hospital approved by
2 the commissioner pursuant to subdivision (a) of section 9.39 of this
3 article or to a comprehensive psychiatric emergency program, if the
4 physician or qualified clinical examiner determines upon examination of
5 such person that such person appears to have a mental illness for which
6 immediate care and treatment in a hospital is appropriate and ~~[which]~~
7 that is likely to result in serious harm to ~~[himself]~~ self or others.
8 Upon the request of the physician or qualified clinical examiner, the
9 director of the program or hospital or the director's designee~~[7]~~ is
10 authorized to direct peace officers, when acting pursuant to their
11 special duties, or police officers~~[7]~~ who are members of an authorized
12 police department or force or of a sheriff's department to take into
13 custody and transport any such person. Upon the request of an emergency
14 room physician or the director of the program or hospital, or the direc-
15 tor's designee, an ambulance service, as defined by subdivision two of
16 section three thousand one of the public health law, is authorized to
17 take into custody and transport any such person. Such person may then be
18 admitted to a hospital in accordance with the provisions of section 9.39
19 of this article or to a comprehensive psychiatric emergency program in
20 accordance with the provisions of section 9.40 of this article.

21 § 20. Subdivisions (b), (c), and (d) of section 9.58 of the mental
22 hygiene law, subdivisions (b), (c) and (d) as added by chapter 678 of
23 the laws of 1994, and paragraph 2 of subdivision (d) as amended by chap-
24 ter 230 of the laws of 2004, are amended to read as follows:

25 (b) If the team physician or qualified mental health professional
26 determines that it is necessary to effectuate transport, he or she shall
27 direct peace officers, when acting pursuant to their special duties, or
28 police officers~~[7]~~ who are members of an authorized police department or
29 force or of a sheriff's department, to take into custody and transport
30 any persons identified in subdivision (a) of this section. Upon the
31 request of such physician or qualified mental health professional, an
32 ambulance service, as defined in subdivision two of section three thou-
33 sand one of the public health law, is authorized to transport any such
34 persons. Such persons may then be evaluated for admission in accordance
35 with the provisions of section 9.27, 9.39, 9.40 or other sections of
36 this article, provided that ~~[such admission decisions shall be made~~
37 ~~independent of the fact that the person was transported pursuant to the~~
38 ~~provisions of this section and, provided further,~~] such transport shall
39 not create a presumption that the person should be involuntarily admit-
40 ted to a hospital.

41 (c) The commissioner shall be authorized to develop standards, in
42 consultation with the commissioner of the division of criminal justice
43 services, relating to the training requirements of teams established
44 pursuant to this section. Such training shall, at a minimum, help to
45 ensure that ~~[the provision of]~~ crisis and emergency services are
46 provided in a manner ~~[which]~~ that protects the health and safety and
47 respects the individual needs and rights of persons being evaluated or
48 transported pursuant to this section.

49 (d) As used in this section~~[-~~

50 ~~(1) "Approved]~~, "approved mobile crisis outreach team" shall mean a
51 team of persons operating as part of a mobile crisis outreach program
52 approved by the commissioner of mental health, which may include mobile
53 crisis outreach teams funded pursuant to section 41.55 of this chapter.

54 ~~[(2) "Qualified mental health professional" shall mean a licensed~~
55 ~~psychologist, registered professional nurse, licensed clinical social~~

~~worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.]~~

§ 21. Subparagraph (iii) of paragraph 4 of subdivision (c) of section 9.60 of the mental hygiene law, as amended by section 2 of subpart H of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(iii) notwithstanding subparagraphs (i) and (ii) of this paragraph, resulted in the issuance of a court order for assisted outpatient treatment ~~[which]~~ that has expired within the last six months, and since the expiration of the order, the person has experienced a substantial increase in symptoms of mental illness ~~[and such symptoms]~~ that substantially interferes with ~~[or limits one or more major life activities as determined by a director of community services who previously was required to coordinate and monitor the care of any individual who was subject to such expired assisted outpatient treatment order. The applicable director of community services or their designee shall arrange for the individual to be evaluated by a physician. If the physician determines court ordered services are clinically necessary and the least restrictive option, the director of community services may initiate a court proceeding]~~ the person's ability to maintain his or her health or safety.

§ 22. Subparagraphs (ii) and (vi) of paragraph 1 of subdivision (e) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(ii) the parent, spouse, domestic partner, sibling eighteen years of age or older, or child eighteen years of age or older of the subject of the petition; or

(vi) a ~~[psychologist, licensed pursuant to article one hundred fifty-three of the education law, or a social worker, licensed pursuant to article one hundred fifty-four of the education law,]~~ qualified mental health professional who is treating the subject of the petition for a mental illness; or

§ 23. Paragraphs 3 and 4 of subdivision (e) of section 9.60 of the mental hygiene law, paragraph 3 as amended by chapter 158 of the laws of 2005, and paragraph 4 as amended by chapter 382 of the laws of 2015, are amended to read as follows:

(3) The petition shall be accompanied by an affirmation or affidavit of a physician, or qualified clinical examiner who shall not be the petitioner, stating either that:

(i) such physician or qualified clinical examiner has personally examined the subject of the petition no more than ten days prior to the submission of the petition, recommends assisted outpatient treatment for the subject of the petition, and is willing and able to testify at the hearing on the petition; or

(ii) no more than ten days prior to the filing of the petition, such physician or qualified clinical examiner or his or her designee has made appropriate attempts but has not been successful in eliciting the cooperation of the subject of the petition to submit to an examination, such physician or qualified clinical examiner has reason to suspect that the subject of the petition meets the criteria for assisted outpatient treatment, and such physician or qualified clinical examiner is willing and able to examine the subject of the petition and testify at the hearing on the petition.

(4) In counties with a population of less than eighty thousand, the affirmation or affidavit required by paragraph three of this subdivision may be made by a physician or qualified clinical examiner who is an

1 employee of the office. The office is authorized to make available, at
2 no cost to the county, a qualified physician or qualified clinical exam-
3 iner for the purpose of making such affirmation or affidavit consistent
4 with the provisions of such paragraph.

5 § 24. Paragraphs 1, 2, 3, and 4 of subdivision (h) of section 9.60 of
6 the mental hygiene law, paragraphs 1, 3, and 4 as amended by chapter 158
7 of the laws of 2005, and paragraph 2 as amended by section 2 of subpart
8 H of part UU of chapter 56 of the laws of 2022, are amended to read as
9 follows:

10 (1) Upon receipt of the petition, the court shall fix the date for a
11 hearing. Such date shall be no later than three days from the date such
12 petition is received by the court, excluding Saturdays, Sundays and
13 holidays. Adjournments shall be permitted only for good cause shown. In
14 granting adjournments, the court shall consider the need for further
15 examination by a physician or qualified clinical examiner or the poten-
16 tial need to provide assisted outpatient treatment expeditiously. The
17 court shall cause the subject of the petition, any other person receiv-
18 ing notice pursuant to subdivision (f) of this section, the petitioner,
19 the physician or qualified clinical examiner whose affirmation or affi-
20 davit accompanied the petition, and such other persons as the court may
21 determine, to be advised of such date. Upon such date, or upon such
22 other date to which the proceeding may be adjourned, the court shall
23 hear testimony and, if it be deemed advisable and the subject of the
24 petition is available, examine the subject of the petition in or out of
25 court. If the subject of the petition does not appear at the hearing,
26 and appropriate attempts to elicit the attendance of the subject have
27 failed, the court may conduct the hearing in the subject's absence. In
28 such case, the court shall set forth the factual basis for conducting
29 the hearing without the presence of the subject of the petition.

30 (2) The court shall not order assisted outpatient treatment unless an
31 examining physician^[7] or qualified clinical examiner who recommends
32 assisted outpatient treatment and has personally examined the subject of
33 the petition no more than ten days before the filing of the petition^[7]
34 testifies in person or by videoconference at the hearing. Provided
35 however, a physician or qualified clinical examiner shall only be
36 authorized to testify by video conference [~~when it has been: (i) shown~~
37 ~~that diligent efforts have been made to attend such hearing in person~~
38 ~~and~~ upon consent of the subject of the petition [~~consents to the physi-~~
39 ~~cian testifying by video conference;~~] or [~~(ii) the court orders the~~
40 ~~physician to testify by video conference~~] upon a finding of good cause.
41 Such physician or qualified clinical examiner shall state the facts and
42 clinical determinations which support the allegation that the subject of
43 the petition meets each of the criteria for assisted outpatient treat-
44 ment.

45 (3) If the subject of the petition has refused to be examined by a
46 physician or qualified clinical examiner, the court may request the
47 subject to consent to an examination by a physician or qualified clin-
48 ical examiner appointed by the court. If the subject of the petition
49 does not consent and the court finds reasonable cause to believe that
50 the allegations in the petition are true, the court may order peace
51 officers, acting pursuant to their special duties, or police officers
52 who are members of an authorized police department or force^[7] or of a
53 sheriff's department to take the subject of the petition into custody
54 and transport him or her to a hospital for examination by a physician or
55 qualified clinical examiner. Retention of the subject of the petition
56 under such order shall not exceed twenty-four hours. The examination of

1 the subject of the petition may be performed by the physician or qualified clinical examiner whose affirmation or affidavit accompanied the
2 petition pursuant to paragraph three of subdivision (e) of this section,
3 if such physician or qualified clinical examiner is privileged by such
4 hospital or otherwise authorized by such hospital to do so. If such
5 examination is performed by another physician [~~the examining physician~~]
6 or qualified clinical examiner, such physician or qualified clinical
7 examiner may consult with the physician or qualified clinical examiner
8 whose affirmation or affidavit accompanied the petition as to whether
9 the subject meets the criteria for assisted outpatient treatment.

10 (4) A physician or qualified clinical examiner who testifies pursuant
11 to paragraph two of this subdivision shall state [~~:(i)~~] the facts and
12 conclusions which support the allegation that the subject meets each of
13 the criteria for assisted outpatient treatment [~~:(ii)~~] and that [~~the~~]
14 assisted outpatient treatment is the least restrictive alternative [~~:(iii) the recommended assisted outpatient treatment, and (iv) the~~]
15 rationale for the recommended assisted outpatient treatment. If the
16 recommended assisted outpatient treatment includes medication, such
17 physician's testimony shall describe the types or classes of medication
18 which should be authorized, shall describe the beneficial and detri-
19 mental physical and mental effects of such medication, and shall recom-
20 mend whether such medication should be self-administered or administered
21 by authorized personnel].

22 § 25. Subdivision (i) of section 9.60 of the mental hygiene law, as
23 amended by chapter 158 of the laws of 2005, is amended to read as
24 follows:

25 (i) Written treatment plan. (1) The court shall not order assisted
26 outpatient treatment unless a physician or psychiatric nurse practition-
27 er appointed by the appropriate director, in consultation with such
28 director, develops and provides to the court a proposed written treat-
29 ment plan. The written treatment plan shall include case management
30 services or assertive community treatment team services to provide care
31 coordination. The written treatment plan also shall include all cate-
32 gories of services, as set forth in paragraph one of subdivision (a) of
33 this section, which such physician or psychiatric nurse practitioner
34 recommends that the subject of the petition receive. All service provid-
35 ers shall be notified regarding their inclusion in the written treatment
36 plan. If the written treatment plan includes medication, it shall state
37 whether such medication should be self-administered or administered by
38 authorized personnel, and shall specify type and dosage range of medica-
39 tion most likely to provide maximum benefit for the subject. If the
40 written treatment plan includes alcohol or substance abuse counseling
41 and treatment, such plan may include a provision requiring relevant
42 testing for either alcohol or illegal substances provided the physi-
43 cian's or psychiatric nurse practitioner's clinical basis for recommend-
44 ing such plan provides sufficient facts for the court to find (i) that
45 such person has a history of alcohol or substance abuse that is clin-
46 ically related to the mental illness; and (ii) that such testing is
47 necessary to prevent a relapse or deterioration [~~which~~] that would be
48 likely to result in serious harm to [~~the person~~] self or others. If a
49 director is the petitioner, the written treatment plan shall be provided
50 to the court no later than the date of the hearing on the petition. If a
51 person other than a director is the petitioner, such plan shall be
52 provided to the court no later than the date set by the court pursuant
53 to paragraph three of subdivision (j) of this section.

(2) The physician or psychiatric nurse practitioner appointed to develop the written treatment plan shall provide the following persons with an opportunity to actively participate in the development of such plan: the subject of the petition; the treating physician, if any; and upon the request of the subject of the petition, an individual significant to the subject including any relative, close friend or individual otherwise concerned with the welfare of the subject. If the subject of the petition has executed a health care proxy, the appointed physician or psychiatric nurse practitioner shall consider any directions included in such proxy in developing the written treatment plan.

(3) The court shall not order assisted outpatient treatment unless a physician or psychiatric nurse practitioner appearing on behalf of a director testifies in person or by video conference to explain the written proposed treatment plan; provided that such testimony shall only be permitted by video conference upon consent of the subject of the petition or upon a finding of good cause. Such physician or psychiatric nurse practitioner shall state the categories of assisted outpatient treatment recommended, the rationale for each such category, facts which establish that such treatment is the least restrictive alternative, and, if the recommended assisted outpatient treatment plan includes medication, [~~such physician shall state~~] the types or classes of medication recommended, the beneficial and detrimental physical and mental effects of such medication, and whether such medication should be self-administered or administered by an authorized professional. If the subject of the petition has executed a health care proxy, such physician or psychiatric nurse practitioner shall state the consideration given to any directions included in such proxy in developing the written treatment plan. If a director is the petitioner, testimony pursuant to this paragraph shall be given at the hearing on the petition. If a person other than a director is the petitioner, such testimony shall be given on the date set by the court pursuant to paragraph three of subdivision (j) of this section.

§ 26. Paragraph 2 of subdivision (j) of section 9.60 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(2) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the subject of the petition meets the criteria for assisted outpatient treatment, and there is no appropriate and feasible less restrictive alternative, the court may order the subject to receive assisted outpatient treatment for an initial period [~~not to exceed~~] of one year; provided that the court may order assisted outpatient treatment for a shorter period upon a showing of good cause or upon the request of the petitioner. In fashioning the order, the court shall specifically make findings by clear and convincing evidence that the proposed treatment is the least restrictive treatment appropriate and feasible for the subject. The order shall state an assisted outpatient treatment plan, which shall include all categories of assisted outpatient treatment, as set forth in paragraph one of subdivision (a) of this section, which the assisted outpatient is to receive, but shall not include any such category that has not been recommended in both the proposed written treatment plan and the testimony provided to the court pursuant to subdivision (i) of this section.

§ 27. Paragraph 2 of subdivision (k) of section 9.60 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(2) Within thirty days prior to the expiration of an order of assisted outpatient treatment, the appropriate director or the current petitioner, if the current petition was filed pursuant to subparagraph (i) or (ii) of paragraph one of subdivision (e) of this section, and the current petitioner retains his or her original status pursuant to the applicable subparagraph, may petition the court to order continued assisted outpatient treatment for a period not to exceed one year from the expiration date of the current order. If the court's disposition of such petition does not occur prior to the expiration date of the current order, the current order shall remain in effect until such disposition. The procedures for obtaining any order pursuant to this subdivision shall be in accordance with the provisions of the foregoing subdivisions of this section; provided that the time restrictions included in paragraph four of subdivision (c) of this section shall not be applicable. The notice provisions set forth in paragraph six of subdivision (j) of this section shall be applicable. Any court order requiring periodic blood tests or urinalysis for the presence of alcohol or illegal drugs shall be subject to review after six months by the physician or psychiatric nurse practitioner who developed the written treatment plan or another physician or psychiatric nurse practitioner designated by the director, and such physician or psychiatric nurse practitioner shall be authorized to terminate such blood tests or urinalysis without further action by the court.

§ 28. Subdivision (n) of section 9.60 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(n) Failure to comply with assisted outpatient treatment. Where in the clinical judgment of a physician or qualified clinical examiner, (i) the assisted outpatient, has failed or refused to comply with the assisted outpatient treatment, (ii) efforts were made to solicit compliance, and (iii) such assisted outpatient may be in need of involuntary admission to a hospital pursuant to section 9.27 of this article or immediate observation, care and treatment pursuant to section 9.39 or 9.40 of this article, such physician or qualified clinical examiner may request the appropriate director of community services, the director's designee, or any physician or qualified clinical examiner designated by the director of community services pursuant to section 9.37 of this article, to direct the removal of such assisted outpatient to an appropriate hospital for an examination to determine if such person has a mental illness for which hospitalization is necessary pursuant to section 9.27, 9.39 or 9.40 of this article. Furthermore, if such assisted outpatient refuses to take medications as required by the court order, or he or she refuses to take, or fails a blood test, urinalysis, or alcohol or drug test as required by the court order, such physician or qualified clinical examiner may consider such refusal or failure when determining whether the assisted outpatient is in need of an examination to determine whether he or she has a mental illness for which hospitalization is necessary. Upon the request of such physician or qualified clinical examiner, the appropriate director, the director's designee, or any physician or qualified clinical examiner designated pursuant to section 9.37 of this article, may direct peace officers, acting pursuant to their special duties, or police officers who are members of an authorized police department or force or of a sheriff's department to take the assisted outpatient into custody and transport him or her to the hospital operating the assisted outpatient treatment program or to any hospital authorized by the director of community services to receive such persons. Such law enforcement officials shall carry out such directive. Upon the request of such

1 physician or qualified clinical examiner, the appropriate director, the
2 director's designee, or any physician or qualified clinical examiner
3 designated pursuant to section 9.37 of this article, an ambulance
4 service, as defined by subdivision two of section three thousand one of
5 the public health law, or an approved mobile crisis outreach team, as
6 defined in section 9.58 of this article, shall be authorized to take
7 into custody and transport any such person to the hospital operating the
8 assisted outpatient treatment program, or to any other hospital author-
9 ized by the appropriate director of community services to receive such
10 persons. Any director of community services, or designee, shall be
11 authorized to direct the removal of an assisted outpatient who is pres-
12 ent in his or her county to an appropriate hospital, in accordance with
13 the provisions of this subdivision, based upon a determination of the
14 appropriate director of community services or director's designee
15 directing the removal of such assisted outpatient pursuant to this
16 subdivision. Such person may be retained for observation, care and
17 treatment and further examination in the hospital for up to seventy-two
18 hours to permit a physician or qualified clinical examiner to determine
19 whether such person has a mental illness and is in need of involuntary
20 care and treatment in a hospital pursuant to the provisions of this
21 article. Any continued involuntary retention in such hospital beyond the
22 initial seventy-two hour period shall be in accordance with the
23 provisions of this article relating to the involuntary admission and
24 retention of a person. If at any time during the seventy-two hour period
25 the person is determined not to meet the involuntary admission and
26 retention provisions of this article, and does not agree to stay in the
27 hospital as a voluntary or informal patient, he or she must be released.
28 Failure to comply with an order of assisted outpatient treatment shall
29 not be grounds for involuntary civil commitment or a finding of contempt
30 of court.

31 § 29. Subdivision (s) of section 9.60 of the mental hygiene law, as
32 added by section 2 of subpart H of part UU of chapter 56 of the laws of
33 2022, is amended to read as follows:

34 (s) Disclosures. (1) A director of community services or his or her
35 designee may require a provider of [~~inpatient psychiatric~~] services
36 operated or licensed by the office of mental health to provide [~~contem-~~
37 ~~poraneous~~] information, including but not limited to relevant clinical
38 records, documents, and other information concerning [~~the person receiv-~~
39 ~~ing assisted outpatient treatment pursuant to an active assisted outpa-~~
40 ~~tient treatment order,~~] an assisted outpatient, a subject of a currently
41 pending petition pursuant to this section, or a person who is the
42 subject of an investigation pursuant to paragraph two of subdivision (b)
43 of section 9.47 of this article, that is deemed necessary by such direc-
44 tor or designee [~~who is required to coordinate and monitor the care of~~
45 ~~any individual who was subject to an active assisted outpatient treat-~~
46 ~~ment order to appropriately~~] in the discharge of their duties of care
47 coordination, care monitoring, or investigation pursuant to section 9.47
48 of this article[, ~~and where~~] or treatment plan development pursuant to
49 subdivision (i) of this section; provided that such provider [~~of inpa-~~
50 ~~tient psychiatric services~~] is [~~required~~] permitted to disclose such
51 information pursuant to paragraph twelve of subdivision (c) of section
52 33.13 of this chapter and such disclosure is in accordance with para-
53 graph two of this subdivision and all other applicable state and federal
54 confidentiality laws. None of the records or information obtained by the
55 director of community services or the director's designee pursuant to
56 this subdivision shall be public records, and the records shall not be

1 released by the director to any person or agency, except as already
2 authorized by law.

3 (2) A requirement to disclose information pursuant to this subdivision
4 shall be in writing and shall be accompanied by documentation demon-
5 strating that:

6 (i) the identified person consents to such disclosure; or

7 (ii) (A) the director of community services or the director's designee
8 provided or made a good faith attempt to provide the identified person
9 with written notice of the director's or the director's designee's
10 intent to seek such disclosure; (B) such notice was sufficient to
11 provide such person with a reasonable opportunity to challenge such
12 disclosure in court; and (C) either no such challenge was filed or the
13 court resolved such challenge by authorizing disclosure.

14 § 30. The mental hygiene law is amended by adding a new section 9.64
15 to read as follows:

16 § 9.64 Notice of admission determination to community provider.

17 Upon a determination by a physician or qualified clinical examiner
18 pursuant to the provisions of this article as to whether a person should
19 be admitted as a patient in a hospital or received as a patient in a
20 comprehensive psychiatric emergency program, the director of such hospi-
21 tal or program shall ensure that reasonable efforts are made to identify
22 and promptly notify of such determination any community provider of
23 mental health services that maintains such person on its caseload.

24 § 31. Paragraph 1 of subdivision (e) of section 29.15 of the mental
25 hygiene law, as amended by chapter 408 of the laws of 1999, is amended
26 to read as follows:

27 1. In the case of an involuntary patient on conditional release, the
28 director may terminate the conditional release and order the patient to
29 return to the facility at any time during the period for which retention
30 was authorized, if, in the director's judgment, the patient needs in-pa-
31 tient care and treatment and the conditional release is no longer appro-
32 priate; provided, however, that in any such case, the director shall
33 cause written notice of such patient's return to be given to the mental
34 hygiene legal service. The director shall cause the patient to be
35 retained for observation, care and treatment and further examination in
36 a hospital for up to seventy-two hours if a physician or qualified clin-
37 ical examiner on the staff of the hospital determines that such person
38 may have a mental illness and may be in need of involuntary care and
39 treatment in a hospital pursuant to the provisions of article nine of
40 this chapter. Any continued retention in such hospital beyond the
41 initial seventy-two hour period shall be in accordance with the
42 provisions of this chapter relating to the involuntary admission and
43 retention of a person. If at any time during the seventy-two hour period
44 the person is determined not to meet the involuntary admission and
45 retention provisions of this chapter, and does not agree to stay in the
46 hospital as a voluntary or informal patient, he or she must be released,
47 either conditionally or unconditionally.

48 § 32. Subdivisions (f) and (m) of section 29.15 of the mental hygiene
49 law, subdivision (f) as amended by chapter 135 of the laws of 1993, and
50 subdivision (m) as added by chapter 341 of the laws of 1980, are amended
51 to read as follows:

52 (f) The discharge or conditional release of all clients at develop-
53 mental centers, patients at psychiatric centers or patients at psychiat-
54 ric inpatient services subject to licensure by the office of mental
55 health shall be in accordance with a written service plan prepared by
56 staff familiar with the case history of the client or patient to be

1 discharged or conditionally released and in cooperation with appropriate
2 social services officials and directors of local governmental units. In
3 causing such plan to be prepared, the director of the facility shall
4 take steps to assure that the following persons are interviewed,
5 provided an opportunity to actively participate in the development of
6 such plan and advised of whatever services might be available to the
7 patient through the mental hygiene legal service: the patient to be
8 discharged or conditionally released; a representative of a community
9 provider of mental health services, including a provider of case manage-
10 ment services, that maintains the patient on its caseload; an authorized
11 representative of the patient, to include the parent or parents if the
12 patient is a minor, unless such minor sixteen years of age or older
13 objects to the participation of the parent or parents and there has been
14 a clinical determination by a physician that the involvement of the
15 parent or parents is not clinically appropriate and such determination
16 is documented in the clinical record and there is no plan to discharge
17 or release the minor to the home of such parent or parents; and upon the
18 request of the patient sixteen years of age or older, ~~[a significant]~~ an
19 individual significant to the patient including any relative, close
20 friend or individual otherwise concerned with the welfare of the
21 patient, other than an employee of the facility.

22 (m) It shall be the responsibility of the chief administrator of any
23 facility providing inpatient services subject to licensure by the office
24 of mental health to notify~~[, when appropriate, the local social services~~
25 ~~commissioner and appropriate state and local mental health represen-~~
26 ~~tatives]~~ the following persons when an inpatient is about to be
27 discharged or conditionally released and to provide to such ~~[officials]~~
28 persons the written service plan developed for such inpatient as
29 required under subdivision (f) of this section: a representative of a
30 community provider of mental health services, including a provider of
31 case management services, that maintains the patient on its caseload; a
32 representative of an adult care facility in which the patient resided at
33 the time of the patient's admission; and, when appropriate, the local
34 social services commissioner and appropriate state and local mental
35 health representatives.

36 § 33. Section 29.15 of the mental hygiene law is amended by adding a
37 new subdivision (f-1) to read as follows:

38 (f-1) Prior to the discharge of a patient from a psychiatric center or
39 from psychiatric inpatient services subject to licensure by the office
40 of mental health, the staff of such facility shall conduct a review as
41 to whether the patient meets the criteria for assisted outpatient treat-
42 ment pursuant to article nine of this chapter. Before discharge, staff
43 shall record in the patient's medical record the finding of such review,
44 the basis of the finding, and, for a patient found to meet the criteria
45 for assisted outpatient treatment, the actions taken to initiate an
46 assisted outpatient treatment petition or referral. Such facilities
47 shall report on a quarterly basis to the office of mental health: the
48 number of psychiatric inpatients discharged; the number of such patients
49 who were screened for assisted outpatient treatment eligibility; the
50 number of patients determined to meet the criteria for assisted outpa-
51 tient treatment; and the number of patients determined to meet the
52 criteria for assisted outpatient treatment who were referred or peti-
53 tioned for assisted outpatient treatment. The office of mental health
54 shall develop an electronic form to facilitate such reporting.

§ 34. Subdivision (b) of section 41.09 of the mental hygiene law, as amended by chapter 588 of the laws of 1973 and such section as renumbered by chapter 978 of the laws of 1977, is amended to read as follows:

(b) Each director shall be a psychiatrist or other professional person who meets standards set by the commissioner for the position. If the director is not a physician or qualified clinical examiner as defined in article nine of this chapter, ~~he~~ the director shall not have the power to conduct examinations authorized to be conducted by an examining physician or qualified clinical examiner or by a director of community services pursuant to this chapter but ~~he~~ shall designate an examining physician or qualified clinical examiner who shall be empowered to conduct such examinations on behalf of such director. A director need not reside in the area to be served. The director shall be a full-time employee except in cases where the commissioner has expressly waived the requirement.

§ 35. The office of mental health shall conduct live training and shall disseminate training materials on the changes to law included in this act and their implications for professional practice. Such training and materials shall be specifically tailored and directly provided to multiple audiences, including mental health professionals, hospital personnel, adult care facility personnel, law enforcement officers, ambulance service personnel, and the general public.

§ 36. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that:

a. the amendments to subdivision (a) of section 9.37 of the mental hygiene law made by section ten of this act shall not affect the expiration and reversion of such subdivision and shall be deemed to expire therewith;

b. the amendments to section 9.40 of the mental hygiene law made by section twelve of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

c. the amendments to sections 9.41 and 9.45 of the mental hygiene law made by sections thirteen and fourteen of this act shall not affect the expiration and reversion of such sections pursuant to section 21 of chapter 723 of the laws of 1989, as amended, and shall expire and be deemed repealed therewith;

d. the amendments to paragraph 3 of subdivision (b) of section 9.47 of the mental hygiene law made by section sixteen of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith;

e. the amendments to sections 9.55 and 9.57 of the mental hygiene law made by sections seventeen and nineteen of this act shall not affect the expiration and reversion of such sections pursuant to section 21 of chapter 723 of the laws of 1989, as amended, and shall be deemed repealed therewith;

f. the amendments to section 9.60 of the mental hygiene law made by sections twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

g. the amendments to subdivision (e) of section 29.15 of the mental hygiene law made by section thirty-one of this act shall not affect the expiration and repeal of such section pursuant to section 18 of chapter 408 of the laws of 1989, as amended and shall expire and be deemed repealed therewith.

1 Effective immediately, the addition, amendment and/or repeal of any
2 rule or regulation necessary for the implementation of this act on its
3 effective date are authorized to be made and completed on or before such
4 effective date.